

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

The Department of Transportation of the State of Illinois, for and on behalf of the People of the State of Illinois,)	
)	
Petitioner,)	
)	
vs.)	
)	
Kansas City Southern Railway Company;)	Docket No. T13-0004
Terminal Railroad Association of St. Louis; and)	
Unknown Owners,)	
)	
Respondents.)	
)	
Petition for approval of the taking or damaging of certain property owned by a common transportation carrier in St. Clair County, Illinois by exercising the right of eminent domain Parcel No. 8015117, Parcel No. 8015117PE, Parcel No. 8015117TE-A & B,)	
Job No. R-98-015-00)	

PROPOSED STIPULATION

By the Commission:

PROCEDURAL HISTORY

On January 7, 2013, the Department of Transportation of the State of Illinois ("Petitioner" or "IDOT") filed the above referenced Petition with the Illinois Commerce Commission ("Commission") naming as Respondents, Kansas City Southern Railway Company ("KC") and Unknown Owners to approve the taking of certain property in St. Clair County, Illinois, by exercising the power of eminent, such property designated herein as Parcel No. 8015117 (Fee Simple Title), Parcel No. 8015117PE (Permanent Easement Title), Parcel No. 8015117TE-A and Parcel No. 8015117TE-B (Temporary Construction Easements) (collectively, the "Subject Property"). IDOT subsequently filed a Motion for Leave to File an Amended Petition adding Terminal Railroad Association of St. Louis ("TRRA") as a Respondent, and subsequently filed a Motion for Leave to File a Second Amendment to the Petition altering the legal description of Parcel No. 8015117. Both motions were granted at hearing.

Pursuant to notice as required by law and the rules and regulations of the Commission, a hearing on the Petition was held on March 11, 2013, before a duly authorized Administrative Law Judge of the Commission at the Commission's office in Springfield, Illinois. Appearances were entered on behalf of Petitioner, Respondents

and a staff member of the Railroad Section of the Transportation Division of the Commission ("Staff"). At the conclusion of the hearing, the case was marked "Heard and Taken."

Subsequent to hearing the parties and Staff filed documents by which each waived a Proposed Order, and each agreed to a Stipulation supplementing evidence at hearing and agreeing to terms for an order, which are made a part hereof.

PETITIONER'S EVIDENCE

Cheryl Keplar testified for IDOT. She is the Condemnation Engineer for IDOT's District office in Collinsville. IDOT is engaged in a project to relocate IL Route 3 in St. Clair County, Illinois. The proposed path of relocated IL Route 3 crosses over the Subject Property. IDOT introduced evidence that the Subject Property is owned by Kansas City Southern Railway Company and TRRA. TRRA stated that it disclaimed any ownership interest in the property. IDOT proposes to construct a bridge overpass structure, where necessary, as part of the relocated IL 3 project to cross over any operating tracks. Ms. Keplar testified the improvement is for a public use as a public highway and is in the interests of the public convenience and necessity.

Ms. Keplar testified that IDOT seeks to acquire the Subject Property from the Railroads for the purpose of constructing, operating, and maintaining relocated IL Route 3 in St. Clair County. IDOT was unable to reach agreement for this acquisition. The Subject Property sought by IDOT is legally described in Exhibits A, B and C, and is depicted in Exhibit D. There are operating tracks across Parcel 8015117PE. There are no operating tracks on the other parcel. IDOT's acquisition will not substantially interfere with any railroad operations. .

KANSAS CITY SOUTHERN RAILWAY COMPANY and TRRA POSITIONS

Kansas City Southern Railway Company and TRRA do not object to a Commission Order granting approval for IDOT to exercise its power of Eminent Domain to acquire fee simple absolute title, a permanent easement title, and temporary construction easements to the Subject Property, as requested in the Petition filed herein as amended, for the construction of the improvements proposed herein.

STAFF POSITION

Staff has no objection to the entry of an Order granting approval for IDOT to exercise its power of Eminent Domain to acquire the property interests requested.

PROPOSED ORDER

The Parties and Staff waived issuance of a Proposed Order.

COMMISSION ANALYSIS AND CONCLUSION

The Commission is of the opinion that it is fair and reasonable to approve the Illinois Department of Transportation's request to proceed to exercise its power of Eminent Domain to acquire the property interests requested.

FINDINGS AND ORDERING PARAGRAPHS

The Commission, after a review of the entire record, finds that:

- (1) the Commission has jurisdiction of the subject matter hereof and the Parties hereto;
- (2) the recitals of fact set forth in the prefatory portion of this Order are supported by the evidence of record and are hereby adopted as findings of fact;
- (3) Petitioner seeks approval to take the following property to construct relocated IL Route 3:
 - (a) a fee simple absolute interest to Parcel No. 8051117 legally described in Exhibit A;
 - (b) a perpetual easement for public highway purposes together with the right to permit others to use or operate, install, maintain, alter, repair, replace, renew, improve, and remove other facilities and structures including, but not limited to, underground communication lines, fiber optics, wire, or other means of electricity, voice data, video, digitized information, pipes and conduits, upon and beneath the surface of said premises, and overhead wires, cables, and poles or other structures for the support of such facilities and structures, over, under, across, and upon the real property designated as Parcel No. 8015117PE, which is legally described in Exhibit B;
 - (c) a temporary easement for construction purposes as to Parcel No. 8015117TE-A & B, which property is legally described in Exhibit C, which temporary easements shall terminate four (4) years after the date of vesting or upon completion of construction, whichever occurs first.
- (4) Petitioner presented evidence as to the ownership of the property by KC and TRRA and the efforts made to obtain the Subject Property by negotiations;
- (5) the evidence shows that construction of the improvement project can be carried out without substantial interference with any rail carrier operations;
- (6) the Petitioner should be granted authority to exercise its power of eminent

domain to acquire the Subject Property set forth in Finding (3) hereinabove.

IT IS THEREFORE ORDERED that the approval of the Illinois Commerce Commission be, and the same is hereby, granted to the Department of Transportation of the State of Illinois, for the purpose of exercising its power of eminent domain to acquire the Subject Property set forth in Finding (3) hereinabove.

IT IS FURTHER ORDERED that subject to Sections 18c-2201 and 18c-2206 of the Law, this is a final decision subject to the Administrative Review Law.

END OF STIPULATION